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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,214	11/25/2003	Braxton W. Smith	5191-001	5520

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COATS & BENNETT, PLLC
P O BOX 5
RALEIGH, NC 27602

EXAMINER

HOGUE, GARY CHAPMAN

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 10/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/721,214	Applicant(s) SMITH, BRAXTON W.	
	Examiner Gary C Hoge	Art Unit 3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7-12,14 and 19-23 is/are rejected.
- 7) ☒ Claim(s) 2,6,13 and 15-18 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 4, 7-9, 11, 12, 22 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker.

The recitation in claim 1 that the inner area "extends around at least a portion of the wiper arm" is sufficient to make claim 1 a combination claim. Walker discloses a bracket assembly **B** having a first section **26** and a second section **28**, each section including an inner area **36** that extends around a portion of a wiper arm. A fastener **42** secures the first and second sections together. A holder **44** extends from the bracket assembly. The statement that the holder is "for receiving and holding a flag" is merely a statement of intended use, and the holder disclosed by Walker could be used to hold a flag.

Regarding claim 3, the wiper arm opening includes an axis and the flag holder has an elongated opening that is disposed at an angle (zero degrees) with respect to the axis of the wiper arm opening.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

Art Unit: 3611

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5, 10, 14 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Socha.

Regarding claim 5, Walker discloses the invention substantially as claimed, as set forth above. However, the first and second sections are held together by an integrally-formed piece 42. Socha teaches that it was known in the art to attach two such sections together via a bolt. It would have been obvious to one having ordinary skill in the art at the time the invention was made to attach the two sections disclosed by Walker with a bolt, as taught by Socha, in order to allow adjustability of the connection.

Regarding claims 10, 14, 19 and 21, Walker discloses the invention substantially as claimed, as set forth above. However, the device held by the holder disclosed by Walker is not a flag. Socha teaches that it was known in the art to mount a flag to the windshield area of a car. It would have been obvious to one having ordinary skill in the art at the time the invention was made to mount a flag to the device disclosed by Walker, as taught by Socha, in order to achieve a more dynamic display.

Regarding claim 20, the shaft disclosed by Walker is held in place by an arm that penetrates an opening in the shaft. However, Socha teaches that it was known in the art to use a set screw to secure a shaft to a vehicle-mounted bracket. It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the penetrating arm disclosed by Walker with a set screw, as taught by Socha, in order to avoid having to put an aperture in the shaft.

Allowable Subject Matter

5. Claims 2, 5, 6, 13 and 15-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

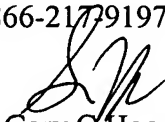
Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C Hoge whose telephone number is (703) 308-3422. The examiner can normally be reached on 5-4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gary C Hoge
Primary Examiner
Art Unit 3611

gch